



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**Planning Commission  
Work Session  
November 21, 2013**

**Tobacco Retail Sales Regulations**

Planning Division, Linda Ajello, AICP, Associate Planner  
Development Services Department



# Tobacco Regulations

## Purpose:

- To establish regulations pertaining to retail sales of tobacco and tobacco-related products in effort to reduce sales of said products to youths.



## Background:

- Tobacco retail sales and tobacco products currently not defined in Zoning Ordinance.
- Staff directed by City Council to develop tobacco regulations (2011/2012).
- Draft regulations presented to Planning Commission May 31, 2012.



# Tobacco Regulations

Background (con't)

Hayward's Grade

- Overall = C
- Reducing Sales of Tobacco Products = D



## State of Tobacco Control 2013 – California Local Grades

ALAMEDA COUNTY																
	Alameda	Albany	Berkeley	Dublin	Emeryville	Fremont	Hayward	Livermore	Newark	Oakland	Piedmont	Pleasanton	San Leandro	Union City	County Incorporated	
Overall Tobacco Control Grade	B	A	B	A	C	B	C	D	D	B	F	D	C	A	C	
Total Points	9	11	9	12	5	8	5	3	4	10	0	4	6	12	5	
<b>Smokefree Outdoor Air</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>B</b>	<b>A</b>	<b>A</b>	<b>D</b>	<b>C</b>	<b>B</b>	<b>F</b>	<b>C</b>	<b>A</b>	<b>A</b>	<b>B</b>	
Dining	2	2	4	4	4	4	4	2	4	4	0	4	4	4	4	
Entryways	4	4	4	4	4	4	4	2	4	4	0	2	4	4	4	
Public Events	4	4	4	2	0	4	2	0	0	0	0	0	4	4	0	
Recreation Areas	4	4	3	4	4	4	4	2	0	4	0	0	4	4	4	
Service Areas	4	4	4	4	4	4	4	0	4	4	0	4	4	4	4	
Sidewalks	1	1	1	0	0	1	1	0	0	0	0	0	0	0	0	
Worksites	1	1	1	0	1	1	0	0	0	0	0	0	1	1	0	
Total Points	20	20	21	18	17	22	19	6	12	16	0	10	21	21	16	
<b>Smokefree Housing</b>	<b>A</b>	<b>B</b>	<b>D</b>	<b>A</b>	<b>D</b>	<b>B</b>	<b>F</b>	<b>D</b>	<b>D</b>	<b>B</b>	<b>F</b>	<b>D</b>	<b>D</b>	<b>A</b>	<b>D</b>	
Nonsmoking Units	4	0	0	4	0	0	0	0	0	0	0	0	0	4	0	
Nonsmoking Common Areas	4	4	2	4	4	4	0	2	2	4	0	2	2	4	2	
Disclosure	4	4	0	3	0	3	0	0	0	4	0	0	0	3	0	
Nuisance	0	0	0	1	0	1	0	0	0	0	0	0	1	1	0	
Housing Authority Units	1	n/a	0	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	1	n/a	n/a	0	
Total Points	13	8	2	12	4	8	0	2	2	8	0	3	3	12	2	
<b>Reducing Sales of Tobacco Products</b>	<b>D</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>D</b>	<b>D</b>	<b>D</b>	<b>D</b>	<b>D</b>	<b>A</b>	<b>F</b>	<b>D</b>	<b>D</b>	<b>A</b>	<b>D</b>	
Tobacco Retailer Licensing	0	4	4	3	0	0	0	0	0	4	0	0	0	4	0	
Sales near Schools and Parks	1	1	1	1	0	0	0	0	0	1	0	0	1	1	0	
Sales in Pharmacies	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Sampling of Tobacco Products	0	0	1	1	1	1	1	1	1	1	0	1	0	1	1	
Total Points	1	5	6	5	1	1	1	1	1	6	0	1	1	6	1	



# Tobacco Regulations

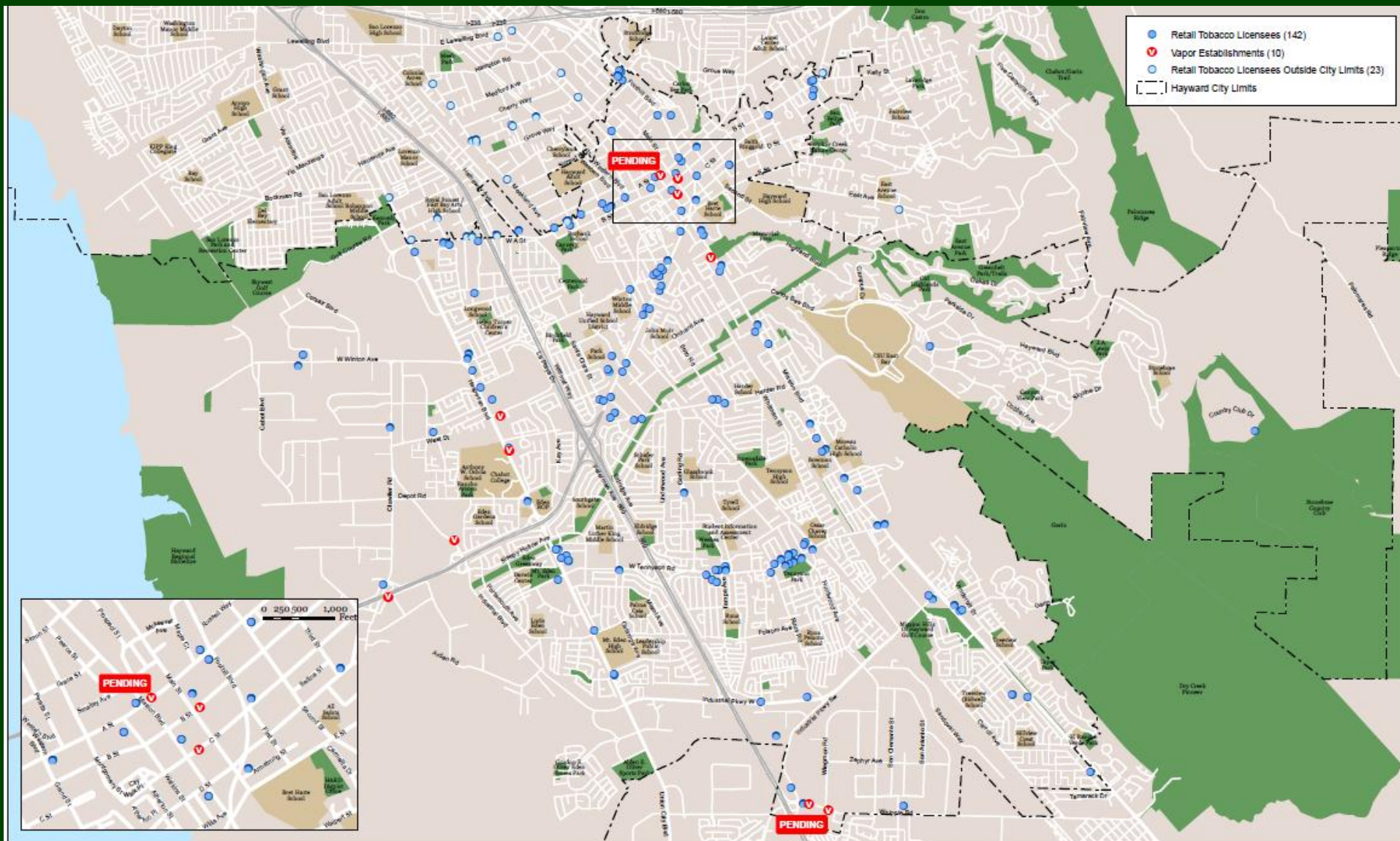
## Tobacco Retailer Density by Jurisdiction

Local Lead Agency	Zip Code	2012 Census County Population Estimate	Tobacco Retailer Count	Retailers Per 1,000 Population	Percent Retailers w/in 1K ft of a School
Alameda	94501	60099	57	0.95	36.84%
Alameda	94502	13140	6	0.46	16.67%
Albany	94706	19168	11	0.57	45.46%
Berkeley	94707	12191	7	0.57	42.86%
Berkeley	94710	6205	13	2.10	53.85%
Castro Valle	94546	42100	39	0.93	12.82%
Castro Valle	94552	14568	3	0.21	0.00%
Dublin	94568	44101	27	0.61	18.52%
Emeryville	94608	25847	44	1.70	47.73%
Fremont	94536	66617	32	0.48	43.75%
Fremont	94538	60461	67	1.11	34.33%
Fremont	94539	51021	27	0.53	37.04%
Fremont	94555	33656	14	0.42	7.14%
Hayward	94541	59173	64	1.08	25.00%
Hayward	94542	12534	2	0.16	0.00%
Hayward	94544	74499	79	1.06	29.11%
Hayward	94545	28935	22	0.76	27.27%
Newark	94560	42322	45	1.06	26.67%
Pleasanton	94566	40443	23	0.57	17.39%
Pleasanton	94588	29918	23	0.77	4.35%
San Leandro	94577	44521	56	1.26	25.00%
San Leandro	94578	37757	48	1.27	22.92%
San Leandro	94579	20167	15	0.74	13.33%
San Lorenzo	94580	28430	21	0.74	52.38%
Union City	94587	68830	49	0.71	20.41%





# Tobacco and Vapor Retailers



HAYWARD



# Tobacco Regulations

## Key Definitions:

- Electronic Smoking Device
- Imitation Tobacco Product
- Smoke
- Tobacco Sales Establishment
- Tobacco Products





# Tobacco Regulations

Proposed Regulations will keep previous key provisions:

- Restrict location allowing sale of tobacco or tobacco-related products to General Commercial (CG) Zoning District;
- Require approval of a Conditional Use Permit (CUP) at all new locations, with some exceptions;
- Allow tobacco sales, as a secondary use, in retail stores over 10,000 square feet in any zoning district;
- Create a definition for tobacco sales, to include regulation of the sale of drug paraphernalia, electronic cigarettes and other specified items



# Tobacco Regulations

## Proposed Regulations (con't)

- Require 500 foot separation from sensitive receptors;
- Prohibit any new tobacco retailers from operating within 500 feet of an existing tobacco retailer; and
- Require all new and existing stores selling tobacco and tobacco-related products, including electronic cigarettes, obtain a Tobacco Retailers License (TRL).

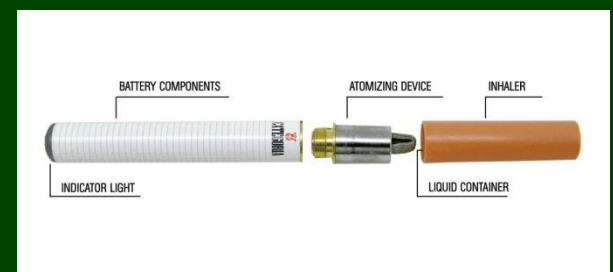




# Tobacco Regulations

## Additional Recommendations:

- Establish specific operational standards and enforcement provisions for all new *and* existing establishments;
- Include electronic cigarettes in regulations;
- Create provisions for existing tobacco retail sales establishments considered legal non-conforming (regardless of zoning district); and
- Require ALL tobacco retailers to obtain annual Tobacco Retail License, which would include conformance with all state, federal and local laws, inspections, etc.



# Tobacco Regulations

Staff Recommends These Be Considered :

- Prohibit pharmacies from selling tobacco
- Exempt large format retailers from CUP requirement
- Apply over-concentration criteria to smoking lounges (Hookah, tobacco, vapor, etc.)
- Where over-concentration exists use non-conformities rules to phase out stores



# Tobacco Regulations

## How Regulations Would Impact Existing Tobacco Retailers:

- No CUP requirement.
- Obtain annual Tobacco Retailers License (TRL).
- Comply with all operational and inspection standards.
- Comply with all local, state and federal laws pertaining to tobacco.





# Tobacco Regulations

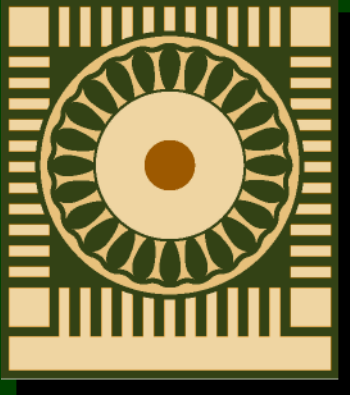
## Outreach to Date:

- Community and Economic Development Committee (CEDC) –Sept 16, 2013.
- Keep Hayward Clean and Green (KHCG) – Sept 26, 2013.
- Downtown Business Improvement Area (DBIA) - Oct 2, 2013.
- Community Meeting – Oct 28, 2013



Recommend that the Planning Commission review and provide comment on this report and the staff recommendations for the establishment of regulations related to the sales of tobacco and tobacco- related products, including electronic cigarettes.

Staff hopes to take the Ordinance to the City Council not later than February 18, 2014.



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